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5 Jan. 2006

Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: YILA -- Abandonment Exemption,
AB 600 (Sub-no. 1X)

YILA and Yakima County response
to US EPA comments of 3 Jan.

Sirs:

The U.S. Environmental Protection Agency (EPA) supplied the attached comments dated 3 January in connection with the above proceeding. EPA lists two concerns: (1) any painting of bridge 4.1 should be completed in a fashion that protects worker health and avoids releases of toxic materials, and (2) possible storm water run-off concerns. This is a response on behalf of Yakima Interurban Lines Association (YILA, the railroad applying for exemption authority) and Yakima County.

In this proceeding, YILA is seeking abandonment (or more specifically here, railbanking) authority. The issue of painting of bridge 4.1 has nothing to do with the authority being sought. We accordingly do not understand a condition governing repair to paint on the bridge to be germane here.

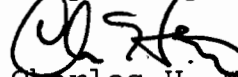
If YILA receives abandonment (or railbanking) authority, YILA expects to transfer the line intact (without salvaging it) to Yakima County. Yakima County has no current plans to salvage the line. Instead, Yakima County plans to seek sufficient funds to complete rehabilitation of the line, and to contract with an operator under this Board's modified rail certificate program (49 CFR 1150.21, et seq.) to operate (and perhaps complete rehabilitation of) the line. It is possible that Yakima County may salvage the line if (a) it cannot identify sufficient funds to complete rehabilitation, or (b) it cannot achieve a satisfactory contract with an operator to rehabilitate and/or operate the line under a modified rail certificate. Because there is a possibility of salvage should an abandonment/railbanking decision by this Board be issued and become effective, Yakima County and YILA do not object to a condition on the abandonment (railbanking) order specifying that

YILA or its transferee will comply with any applicable Department of Ecology NPDES permit requirements arising from storm water concerns in the event that track material is salvaged from the line.

US EPA also expresses some concerns about repair and replacement of track materials in the event of rail reactivation. Repair and replacement of track materials on an existing rail line is not a matter subject to this Board's authorization, and is thus not ordinarily a matter on which an environmental condition would be placed in an abandonment proceeding. YILA and Yakima County do not believe an environmental condition governing how track material may be replaced or repaired is appropriate here. More specifically, in the event an abandonment authorization were granted here, any rail reactivation would be pursuant either to a dismissal of this abandonment proceeding by STB, or the issuance of a modified rail certificate by STB. These events are not at issue in this proceeding. If they occur, environmental issues may be appropriately addressed by this agency to the extent that a federal action triggering that requirement is involved. Until then, the issues are premature and it is inappropriate to deal with them here.

Nonetheless, I note that Yakima County owns other regulated rail property, is familiar with railroad issues, and intends to comply with all applicable regulations. In confirmation thereof, I attach hereto an email from Gary Eckstedt, Yakima County Engineer, in which he confirms that his department is familiar with the two issues identified by EPA, understands them, and, assuming Yakima County acquires the line, Yakima County "will comply with all applicable regulations."

Very truly,



Charles H. Montange
for YILA and Yakima County

Encl. (EPA Jan. 3 letter)

cc. Clifford J. Villa
Assistant Regional Counsel
US EPA, Region 10
1200 Sixth Avenue
Seattle, WA 98101 (w/o encl.)
(EPA reply no. ORC 158)

c.montange

From: "Gary Ekstedt" <gary.ekstedt@co.yakima.wa.us>
To: "Charles Montange (E-mail)" <c.montange@verizon.net>
Cc: "Phil Hoge" <phil.hoge@co.yakima.wa.us>; "Terry Austin" <terry.austin@co.yakima.wa.us>; "Kent McHenry" <kent.mchenry@co.yakima.wa.us>
Sent: Thursday, January 05, 2006 2:06 PM
Subject: EPA Comment Letter on YILA Abandonment Petition

Charles, Phil Hoge provided me with a copy of your FAX containing the EPA comment letter. The two issues identified in the letter are pretty common place in our world (e.g. Public Works). I believe a sufficient response is to acknowledge our understanding of the issues and that Yakima County, assuming we take possession of the line, will comply with all applicable regulations.

Thanks!

Gary N. Ekstedt, P.E.
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1/5/2006



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue
Seattle, WA 98101

January 3, 2006

Reply To
Attn Of: ORC-158

Surface Transportation Board
Section of Environmental Analysis
Washington, D.C. 20423-0001

Re: STB Docket No. AB-600 (sub-no. 1X) - Yakima Interurban Lines Association
Abandonment Exemption

Ladies and Gentlemen:

The U.S. Environmental Protection Agency (EPA) has received and reviewed a notice and information dated 6 December 2005 provided to multiple agencies and parties in connection with the abandonment proceeding referenced above. In particular, the notice attached an Environmental Report and Historic Report prepared in support of an anticipated petition for abandonment of a railroad line of approximately 11 miles within Yakima County, Washington. At this time, EPA is unaware of any specific inaccuracies contained within this Environmental Report. However, based on our review of the report and other provided materials, we nonetheless provide the following comments in order to identify two potential environmental concerns related to any prospective railroad abandonment activity.

1. Lead Paint. Exposure to lead from lead-based paint has been seen as a potentially serious threat to human health within the United States. One source of lead-based paint that EPA has identified are historic buildings and structures, including railroad bridges such as the Naches River Bridge, No. 4.1, located within the railroad segment proposed for this abandonment proceeding. According to the 1999 inspection report included within the materials provided, the Naches River Bridge is believed to have been constructed as early as the 1950s, within the era when lead-based paint was commonly used. The inspection report, from six years ago, noted the need for spot cleaning and painting of the bridge "within 7 to 10 years" (i.e., now one to four years) and that a "more extensive painting project" would likely be required within a longer time frame. Given the possibility of lead-based paint on this bridge, care should be taken in any spot cleaning or "more extensive painting project" to protect worker health and avoid releases of toxic materials to the Naches River or other ambient media, in accord with the federal Clean Water Act, Toxic Substances Control Act, and other applicable federal, state, or local requirements.

2. Storm Water Discharges. The Environmental Report contends (p. 6) that "the proposed action will not entail any construction resulting in off-rail roadbed disturbance" and that "[n]o designated wetlands or 100 year flood-plains will be affected." The Report therefore concludes that no permits under Clean Water Act sections 402 or 404 should be required.

Potentially contrary to assumptions in the Environmental Report, it is evident from the materials provided that segments of the rail line proposed for abandonment run directly adjacent to the Naches River. The rail-line even crosses the river at the Naches River Bridge. Beyond the railbed itself, the railroad corridor is reported to average 75 feet (p. 7), a width that may actually extend into the Naches River in places and almost certainly includes jurisdictional wetlands along the river.

Notwithstanding this presence of jurisdictional wetlands, if the proposed action merely entails the railbanking and transfer of the railroad right-of-way to a third party, EPA agrees that no permits under the Clean Water Act should be required. If, however, the proposed action also entails railroad salvage activities, such as the removal of ties and tracks for trail construction or repair or replacement of track materials for reactivation of rail services, then Clean Water Act requirements may be implicated. In particular, if salvage activities involve clearing, grading or excavating that will disturb more than one acre of land, such activities must comply with requirements for obtaining a permit under the Clean Water Act National Pollutant Discharge Elimination System (NPDES) to prevent or minimize the discharge of pollutants in storm water runoff from the disturbed areas to waters of the United States.

In the State of Washington, the Department of Ecology (WDOE) is authorized to administer the NPDES program and in particular to issue permits for regulating storm water runoff. To apply for such a permit, if necessary for the proposed action, information may be found on-line at <http://www.ecy.wa.gov/programs/wq/stormwater/construction>

The permit, commonly known as the Construction Storm Water General Permit, requires the development and implementation of a project-specific Storm Water Pollution Prevention Plan. This plan must describe all appropriate erosion, sediment and construction waste Best Management Practices to be used during the active construction phase, including maintenance and self-inspection requirements, that will prevent the discharge of pollutants to waters of the United States via runoff from the construction sites. Upon development of the SWPPP, operators must submit a Notice of Intent application form to Department of Ecology prior to the start of the construction, and submit a Notice of Termination to end permit coverage upon final stabilization of all disturbed areas. More information about the WDOE Construction Storm Water General Permit process can be obtained through the WDOE website or by contacting Joyce Smith at (360) 407-6858.

If you or your staff have any general questions for EPA about storm water permitting requirements, please contact Misha Vakoc, Storm Water Program Coordinator, at (206) 553-6650 or vakoc.misha@epa.gov. Legal questions may be directed to me at (206) 553-1185.

Sincerely,



Clifford J. Villa
Assistant Regional Counsel

cc: Charles Montange, Esq.
counsel for YILA